

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

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Michael Wayne Worley,

Plaintiff,

vs.

Carolyn W. Colvin, Acting Commissioner
of Social Security,

Defendant.

Civil Action No. 2:12-2204-RMG

ORDER

Plaintiff has brought this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of the final decision of the Commissioner of Social Security denying his claim for Disability Insurance Benefits ("DIB"). In accord with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 DSC, this matter was referred to a United States Magistrate Judge for pre-trial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on January 23, 2014, recommending that the decision of the Commissioner be affirmed. (Dkt. No. 23). The Plaintiff filed no objections to the R & R.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge. 28 U.S.C. § 636(b)(1).

The role of the federal judiciary in the administrative scheme established by the Social Security Act is a limited one. The Act provides that the “findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive.” 42 U.S.C. § 405(g). “Substantial evidence has been defined innumerable times as more than a scintilla, but less than preponderance.” *Thomas v. Celebrezze*, 331 F.2d 541, 543 (4th Cir. 1964). This standard precludes *de novo* review of the factual circumstances that substitutes the Court’s findings of fact for those of the Commissioner. *Vitek v. Finch*, 438 F.2d 1157 (4th Cir. 1971).

Although the federal court’s review role is a limited one, “it does not follow, however, that the findings of the administrative agency are to be mechanically accepted. The statutorily granted right of review contemplates more than an uncritical rubber stamping of the administrative action.” *Flack v. Cohen*, 413 F.2d 278, 279 (4th Cir. 1969). Further, the Commissioner’s findings of fact are not binding if they were based upon the application of an improper legal standard. *Coffman v. Bowen*, 829 F.2d 514, 519 (4th Cir. 1987).


Discussion

The Court has reviewed the Magistrate Judge’s R & R, the administrative record, and the applicable legal standards. The Court finds that the R & R ably analyzes the factual and legal issues in this matter and correctly concludes that the Commissioner’s decision is supported by substantial evidence and should be affirmed. Therefore, Court adopts the R & R as the order of the Court.

Conclusion

Based on the foregoing, the Court hereby **ADOPTS** the R & R as the order of the Court and **AFFIRMS** the decision of the Commissioner, pursuant to 42 U.S.C. § 405(g).

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

February 14, 2014
Charleston, South Carolina